

## REMARKS

This Application has been carefully reviewed in light of the Official Action mailed December 3, 2001. At the time of this Official Action, Claims 1-95 were pending in this Application, of which Claims 1-95 were rejected. The following actions were taken or matters raised by the Examiner: (I) documents noted in the information disclosure statement (IDS) were placed in the application, but were not considered due to the volume of material; (II) Claims 1-24, 26-45, 47-63, and 65-95 were rejected under 35 U.S.C. §102(e) as being anticipated by Manico et al. (US 6,174,094); (III) Claims 35 and 75 were rejected under 35 U.S.C. §103(a) as being unpatentable over Manico et al. (US 6,174,094) alone or in view of Dellert et al. (US 6,283,646); and (IV) Claims 25, 46, and 64 were rejected under 35 U.S.C. §103(a) as being unpatentable over Manico et al. (US 6,174,094) alone or in view of Bell et al. (US 6,147,742).

### I. Non-Consideration of Documents noted in IDS

With respect to the indication that the Information Disclosure Statement filed on September 10, 2001 would be denied consideration, the Applicant respectfully requests reconsideration in lieu of arguments similar to those set forth in the attached copy of the "Petition to Require Examiner to Consider References Submitted in Information Disclosure

Statement," as filed in Application Serial No. 09/487,967, on December 21, 2001. The petition was filed pursuant to an agreement between the Examiner and James D. Liles (attorney for the Applicant) (in a telephone conversation pertaining to a similar issue in the prosecution of Application Serial No. 09/487,967) that further written requests for reconsideration would not advance that dispute, and that the matter could best be advanced by the filing of a petition. The Applicant hopes the present issue can be resolved without the necessity of filing such a petition in the present application. Reconsideration is respectfully requested.

**II. Claims 1-24, 26-45, 47-63, and 65-95 Rejected under 35 U.S.C. §102(e)**

The office has rejected Claims 1-24, 26-45, 47-63, and 65-95 under 35 U.S.C. §102(e) as being anticipated by Manico et al. (US 6,174,094). Applicant directs Examiner's attention to the attached affidavits and supporting documents supplied pursuant to 37 C.F.R. §131. The attached affidavits and supporting documents show that Applicant conceived the claimed invention prior to the filing date of the Manico reference, and acted diligently until the invention was constructively reduced to practice.

In particular, the fact that the invention disclosed in this application was presented to prospective clients and investors in January of 1998, and again in June of 1999 shows conception prior to November 30, 1999. Diligence is shown by the fact that the presentations included timelines for completion, and by the large amount of money and manpower directed to developing the invention up to the present time.

Inasmuch as the attached affidavit and supporting documents remove Manico et al. (US 6,174,094) as a prior art reference, the rejection of Claims 1-24, 26-45, 47-63, and 65-95 under 35 U.S.C. §102(e) is unsupported. Applicant submits, therefore, that Claims 1-24, 26-45, 47-63, and 65-95 are in condition for allowance, which allowance is respectfully requested.

### **III. Claims 35 and 75 Rejected under 35 U. S. C. § 103(a)**

The office has rejected Claims 35 and 75 under 35 U.S.C. §103(a) as being unpatentable over Manico et al. (US 6,174,094) alone or in view of Dellert et al. (US 6,283,646). Applicant directs Examiner's attention to the attached affidavits and supporting documents supplied pursuant to 35 U.S.C. §131. The attached affidavits and supporting documents show that Applicant conceived the claimed invention prior to the filing date of the Manico reference, and acted diligently until the invention was constructively reduced to practice.

In particular, the fact that the invention disclosed in this application was presented to prospective clients and investors in January of 1998, and again in June of 1999 shows conception prior to November 30, 1999. Diligence is shown by the fact that the presentations included timelines for completion, and by the large amount of money and manpower directed to developing the invention up to the present time.

Inasmuch as the attached affidavit and supporting documents remove Manico et al. (US 6,174,094) as a prior art reference, the rejection of Claims 35 and 75 under 35 U.S.C.

§103(a) is unsupported. Applicant submits, therefore, that Claims 35 and 75 are in condition for allowance, which allowance is respectfully requested.

**III. Claims 25, 46, and 64 Rejected under 35 U. S. C. § 103(a)**

The office has rejected Claims 25, 46, and 64 under 35 U.S.C. §103(a) as being unpatentable over Manico et al. (US 6,174,094) alone or in view of Bell et al. (US 6,147,742). Applicant directs Examiner's attention to the attached affidavits and supporting documents supplied pursuant to 35 U.S.C. §131. The attached affidavits and supporting documents show that Applicant conceived the claimed invention prior to the filing date of the Manico reference, and acted diligently until the invention was constructively reduced to practice.

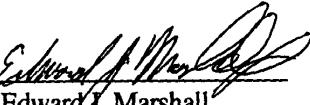
In particular, the fact that the invention disclosed in this application was presented to prospective clients and investors in January of 1998, and again in June of 1999 shows conception prior to November 30, 1999. Diligence is shown by the fact that the presentations included timelines for completion, and by the large amount of money and manpower directed to developing the invention up to the present time.

Inasmuch as the attached affidavit and supporting documents remove Manico et al. (US 6,174,094) as a prior art reference, the rejection of Claims 25, 46, and 64 under 35 U.S.C. §103(a) is unsupported. Applicant submits, therefore, that Claims 35 and 75 are in condition for allowance, which allowance is respectfully requested.

## CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for reasons clearly apparent, Applicants respectfully request full allowance of all pending claims. If there are any matters that can be discussed by telephone to further the prosecution of this Application, Applicants invite the Examiner to contact the undersigned attorney at 512-260-6871 at the Examiner's convenience.

Respectfully Submitted,  
Stacy S. Cook, et al.

By:   
Edward J. Marshall  
Reg. No. 45,395

SIMON, GALASSO & FRANTZ PLC  
P.O. Box 26503  
AUSTIN, TEXAS 78755-0503  
TELEPHONE: (512) 306-8533  
FACSIMILE: (512) 306-8559